

on a reimbursement basis. If that is not possible, grant payments will be made by U.S. Treasury checks.

(3) *Deobligation.* HUD may deobligate amounts for grants if proposed activities are not begun or completed within a reasonable period of time after selection.

(j) *Other Federal requirements—*(1) *Applicability of part 570.* HSI-WSP shall be subject to the policies and procedures set forth in subparts A, K, and O of 24 CFR part 570, as applicable, except as modified or limited under the provisions of this Notice. The provisions of subparts C and J of part 570 shall not apply to HSI-WSP.

(2) *Uniform Administrative requirements.* Recipients under HSI-WSP shall comply with the requirements and standards of OMB Circular No. A-22, "Cost Principles for Educational Institutions." Recipients that are private institutions of higher education shall comply with OMB Circular A-133, "Non-Federal Audit Requirements for Institutions of Higher Education and Other Nonprofit Institutions," which is implemented at 24 CFR part 45. Recipients that are public institutions of higher education shall comply with OMB Circular A-128, "Non-Federal Audit Requirements for State and Local Governments," which is implemented at 24 CFR part 44. Audits shall be conducted annually. In addition, all recipients under HSI-WSP shall comply with the provisions of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," which is implemented at 24 CFR part 84. OMB Circular A-110 shall apply to recipients in its entirety.

[62 FR 17493, Apr. 9, 1997, as amended at 63 FR 9683, Feb. 25, 1998]

Subpart F— Small Cities and Insular Areas Programs

SOURCE: 62 FR 62914, Nov. 25, 1997, unless otherwise noted.

§ 570.420 General.

(a) *Administration of nonentitlement CDBG funds by HUD or Insular Areas—*(1) *Small cities.* The Act permits each

State to elect to administer all aspects of the CDBG program annual fund allocation for the nonentitlement areas within its jurisdiction. This subpart sets forth policies and procedures applicable to grants for nonentitlement areas in States that have not elected, in a manner and time prescribed by the Secretary, to administer the CDBG program. States that elected to administer the program after the close of fiscal year 1984 cannot return administration of the program to HUD. A decision by a State to discontinue administration of the program would result in the loss of CDBG funds for nonentitlement areas in that State and the reallocation of those funds to all States in the succeeding fiscal year.

(2) *Insular areas.* Title V of Public Law 108-186 amended the Act to move the insular areas funding authorization from sections 107(a) and (b) to section 106(a). This revision identified a specific portion of the CDBG allocation for insular areas that is separate from the distribution for special purpose grants, as well as from the Entitlement and State formula distribution. The insular areas of Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa are permitted to administer all aspects of their Community Development Block Grant (CDBG) program under section 106 of the Act in accordance with their final statement as further described at § 570.440.

(b) *Scope and applicability.* (1) This subpart describes the policies and procedures of the Small Cities Program that apply to nonentitlement areas in States where HUD administers the CDBG program. HUD currently administers the Small Cities program in only two States—New York (for grants prior to FY2000) and Hawaii. The small cities portion of this subpart principally addresses the requirements for New York in §§ 570.421, 570.426, 570.427, and 570.431. Sections 570.429 and 570.430 identify special procedures applicable to Hawaii. Section 570.432 is applicable to both New York and Hawaii.

(2) This subpart also describes the policies and procedures governing community development block grants to insular areas under section 106 of the

Act. Sections 570.440 and 570.441 identify procedures applicable to the Insular Areas program under section 106 of the Act. Fund reservations for insular areas under section 107 of the Act shall remain governed by the policies and procedures described in section 107(a)(1)(A) of the Act and §§ 570.400 and 570.405 of this part.

(3) The policies and procedures set forth in the following identified subparts of this part apply to the HUD-administered Small Cities and Insular Areas programs, except as modified or limited under the provisions thereof or this subpart:

- (i) Subpart A—General Provisions;
- (ii) Subpart C—Eligible Activities;
- (iii) Subpart J—Grant Administration;
- (iv) Subpart K—Other Program Requirements;
- (v) Subpart M—Loan Guarantees; and
- (vi) Subpart O—Performance Reviews.

(c) *Public notification requirements.* (1) Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. All competitive grants in the HUD-administered Small Cities program in New York are affected by this statute, and the requirements identified at 24 CFR part 4 apply to them. Imminent threat grants under § 570.424 and section 108 repayment grants under § 570.432 are not affected by section 102 because they are not competitive grants.

(2) The Hawaii HUD-administered Small Cities program is not subject to section 102 because the funds are not distributed by HUD on a competitive basis.

(3) The Insular Areas program under section 106 of the Act is not subject to section 102 because the funds are not distributed by HUD on a competitive basis.

(d) *Abbreviated consolidated plan.* Applications for the HUD-administered Small Cities Program and the Insular Areas program under section 106 of the Act that contain housing activities must include a certification that the

proposed housing activities are consistent with the applicant's consolidated plan as described at 24 CFR part 91.

(e) *National and primary objectives.* (1) Each activity funded through the Small Cities program and the Insular Areas program under section 106 of the Act must meet one of the following national objectives as defined under the criteria in § 570.208:

- (i) Benefit low- and moderate-income families;
- (ii) Aid in the prevention or elimination of slums or blight; or
- (iii) Be an activity that the grantee certifies is designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

(2) In addition to the objectives described in paragraph (e)(1) of this section, with respect to grants made through the Small Cities program, not less than 70 percent of the total of grant funds from each grant and Section 108 loan guarantee funds received under subpart M of this part within a fiscal year must be expended for activities which benefit low- and moderate-income persons under the criteria of § 570.208(a) or of § 570.208(d)(5) or (6). In the case of multiyear plans in New York State approved in response to NOFAs published prior to calendar year 1997, not less than 70 percent of the total funding for grants approved pursuant to a multiyear plan for a time period of up to three years must be expended for activities which benefit low- and moderate-income persons. Thus, 70 percent of the grant for year 1 of a multiyear plan approved in response to NOFAs published prior to calendar year 1997 must meet the 70 percent requirement, 70 percent of the combined grants from years 1 and 2 must meet the requirement, and 70 percent of the combined grants from years 1, 2, and 3 must meet the requirement. In determining the percentage of funds expended for such activity, the provisions of § 570.200(a)(3)(i), (iii), (iv), and (v) shall apply.

(3) In addition to the objectives described in paragraph (e)(1) of this section, grants made through the Insular Areas program shall also comply with the primary objective of 70 percent benefit to low- and moderate-income persons. Insular area recipients must meet this requirement for each separate grant under section 107 of the Act. For grants made under section 106 of the Act, insular area recipients must ensure that over a period of time specified in their certifications not to exceed three years, not less than 70 percent of the aggregate of CDBG fund expenditures shall be for low- and moderate-income activities meeting the criteria under § 570.208(a) or under § 570.208(d)(5) or (6). See also § 570.200(a)(3) for further discussion of the primary objective.

(f) *Allocation of funds*—(1) *Small cities*. The allocation of formula CDBG funds for use in nonentitlement areas of Hawaii is as provided in subpart A of this part.

(2) *Insular areas*. The allocation of appropriated funds for insular areas under section 106 of the Act shall be governed by the policies and procedures described in section 106(a)(2) of the Act and §§ 570.440 and 570.441 of this subpart. The annual appropriations described in this section shall be distributed to insular areas on the basis of the ratio of the population of each insular area to the population of all insular areas.

[69 FR 32779, June 10, 2004]

§ 570.421 New York Small Cities Program design.

(a) *Selection system*—(1) *Competitive applications*. Each competitive application will be rated and scored against at least the following factors:

(i) Need-absolute number of persons in poverty as further explained in the NOFA;

(ii) Need-percent of persons in poverty as further explained in the NOFA;

(iii) Program Impact; and

(iv) Fair Housing and Equal Opportunity, which may include the applicant's Section 3 plan and implementation efforts with respect to actions to affirmatively further fair housing. The NOFA described in paragraph (b) of this section will contain a more de-

tailed description of these factors, and the relative weight that each factor will be given.

(2) In addition HUD reserves the right to establish minimal thresholds for selection factors and otherwise select grants in accordance with § 570.425 and the applicable NOFA.

(3) *Imminent threats to public health and safety*. The criteria for these grants are described in § 570.424.

(4) *Repayment of Section 108 loans*. The criteria for these grants are described in § 570.432.

(5) *Economic development grants*. HUD intends to use the Section 108 loan guarantee program to the maximum extent feasible to fund economic development projects in the nonentitlement areas of New York. In the event that there are not enough Section 108 loan guarantee funds available to fund viable economic development projects, if a project needs a grant in addition to a loan guarantee to make it viable, or if the project does not meet the requirements of the Section 108 program but is eligible for a grant under this subpart, HUD may fund Economic Development applications as they are determined to be fundable in a specific amount by HUD up to the sum set aside for economic development projects in a notice of funding availability, notwithstanding paragraph (g) of this section. HUD also has the option in a NOFA of funding economic development activities on a competitive basis, as a competitive application as described in paragraph (a)(1) of this section. In order for an applicant to receive Small Cities grant funds on a noncompetitive basis, the field office must determine that the economic development project will have a substantial impact on the needs identified by the applicant.

(b) *Notice of funding availability*. HUD will issue one or more Notice(s) of Funding Availability (NOFA) each fiscal year which will indicate the amount of funds available, the annual grant limits per grantee, type of grants available, the application requirements, and the rating factors that will be used for those grants which are competitive. A NOFA may set forth, subject to the requirements of this subpart, additional selection criteria for all grants.